



Policy Changes Approved April 15, 2010

Unified Student Loan Policy

Batch 168: Proposals 1182 – 1194 and 1158

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Requirements for a Teach-Out Plan

The *Common Manual* has been revised to incorporate the requirements within the Program Participation Agreement for the preparation and submission of a teach-out plan by a school to its accrediting agency or association if any of the following occurs:

- The Department initiates a limitation, suspension, termination, or emergency action (see Section 18.1).
- The school's accrediting agency acts to withdraw, terminate, or suspend the accreditation or preaccreditation of the school.
- The school's state licensing or authorizing agency revokes the school's license or legal authorization to provide an educational program.
- The school intends to close a location that provides 100% of at least one program.
- The school otherwise intends to cease operations.

Affected Sections:	4.1.A Establishing Eligibility
Effective Date:	July 1, 2010.
Basis:	§668.14(b)(31); <i>Federal Register</i> dated October 29, 2009, pp. 55924 and 55934; <i>Federal Register</i> dated August 21, 2009, pp. 42384 and 42430.
Policy Information:	1182/168
Guarantor Comments:	None.



Policy Changes Approved April 15, 2010

Unified Student Loan Policy

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Baccalaureate Liberal Arts Programs Offered by Proprietary Institutions

The *Common Manual* has been revised to incorporate a program leading to a baccalaureate degree in liberal arts as an eligible program for a proprietary institution of higher education if the school has provided the program continuously since January 1, 2009, and the school has been continuously accredited by a recognized regional accrediting agency or association since October 1, 2007, or earlier. A baccalaureate degree in liberal arts must be a regular program that the school's recognized regional accreditation agency or organization determined to be a general instructional program in the liberal arts subjects, the humanities disciplines, or the general curriculum, falling within one or more of the following instructional categories:

- A program that is a structured combination of the arts, biological and physical sciences, social sciences, and humanities that emphasize a breadth of study.
- An undifferentiated program that includes instruction in the general arts or general science.
- A program that focuses on combined studies and research in the humanities emphasizing languages, literatures, art, music, philosophy, and religion.
- Any single instructional program in liberal arts and sciences, general studies, and humanities not listed above.

Independently-designed, individualized, and unstructured programs and studies in the liberal arts offered by proprietary schools are excluded from eligibility.

Affected Sections:	4.1.C Maintaining Eligibility
Effective Date:	July 1, 2010.
Basis:	§600.5(e); §668.8(d)(4); DCL GEN-08-12; <i>Federal Register</i> dated October 29, 2009, pp. 55904 and 55933; <i>Federal Register</i> dated August 21, 2009, pp. 42383, 42428, and 42429.
Policy Information:	1183/168
Guarantor Comments:	None.



Policy Changes Approved April 15, 2010

Unified Student Loan Policy

Batch 168: Proposals 1182 – 1194 and 1158

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Additional Location as the Result of a Teach-Out

The *Common Manual* has been revised to incorporate the requirements by which a school that conducts a teach-out may establish a permanent additional location at a closed school if the Department took a limitation, suspension, and termination (LS&T), or emergency action against the school before or after its closing. The school providing the teach-out is not required to satisfy the proprietary and postsecondary vocational school requirement of being in existence for 2 years. If the closed school and teach-out schools are not related parties and do not have common ownership or management, the school providing the teach-out is neither responsible for any liabilities of the closed school nor will the default rate of the closed school be included in the calculation of the teach-out school's default rate. However, as a condition for approving the additional location, the Department may require that any payment(s) from the school conducting the teach-out to the owners or related parties of the closed school be used to satisfy the liabilities owed by the closed school.

Affected Sections:	4.1.C Maintaining Eligibility
Effective Date:	Effective July 1, 2010, unless implemented earlier by the school on or after November 1, 2009.
Basis:	§600.32(d); <i>Federal Register</i> dated October 29, 2009, pp. 55905 and 55933; <i>Federal Register</i> dated August 21, 2009, pp. 42383 – 42384 and 42429; 09-10 FSA Handbook, Volume 2, Chapter 5, p. 2-63.
Policy Information:	1184/168
Guarantor Comments:	None.



Policy Changes Approved April 15, 2010

Unified Student Loan Policy

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Student Consumer Information

The *Common Manual* has been updated to provide a high-level description of the student consumer information that a school must make available, as distinguished from consumer information that a school must directly distribute, and reorganizes the student consumer information disclosure items addressed in Manual text accordingly.

Revised policy includes additional information and clarification from Final Rule changes about student consumer information disclosures that were initially mandated by the Higher Education Opportunity Act of 2008 (HEOA), and expands the high-level summary of existing annual security report requirements in order to provide a similar level of detail.

Revised policy also corrects existing Manual text by stating that, in the case of a prospective student, the requirement to provide student consumer information to the student before he or she enrolls or enters into a financial obligation with the school only applies to the disclosure of completion rates, if applicable; transfer-out rates; and retention rates—not to all student consumer information disclosures provided to prospective students.

Affected Sections:

4.4.B Consumer Information

Effective Date:

Student consumer information disclosures made available by a school on or after July 1, 2010, with the following exceptions:

- For the emergency evacuation and response policies and procedures, effective for the annual security report that a school must distribute by October 1, 2010.
- For policies and procedures, effective for the fire safety report that a school must distribute by October 1, 2010. If the fire safety report is included in the annual security report, effective for the annual security report that a school must distribute by October 1, 2010.
- For annual security report provisions, retroactive to the implementation of the *Common Manual*.

Basis:

§668.41(a), (d), and (e); §668.43(a)(5)(iv); §668.43(a)(10) and (11); §668.45; §668.46(a); §668.46(b)(13) and (14); §668.46(g) and (h); §668.49; *Federal Register* dated August 21, 2009, pp. 42391 and 42397; *Federal Register* dated October 29, 2009, pp. 55910 to 55914, and 55943 to 55947.

Policy Information:

1185/168

Guarantor Comments:

None.



Policy Changes Approved April 15, 2010

Unified Student Loan Policy

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Entrance Counseling

The *Common Manual* has been updated to include regulatory changes and citations resulting from final rules published in the October 29, 2009, *Federal Register*. Revised policy expands entrance counseling delivery methods to include both online and interactive electronic means, and encourages the use of methods that test the borrower's understanding of the terms and conditions of his or her loans.

Affected Sections:	4.4.C Entrance Counseling
Effective Date:	Entrance counseling provided by the school on or after July 1, 2010, unless implemented earlier by the school.
Basis:	§682.604(f); <i>Federal Register</i> dated October 28, 2009, pp. 55639-55640.
Policy Information:	1186/168
Guarantor Comments:	None.



Policy Changes Approved April 15, 2010

Unified Student Loan Policy

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Student Eligibility after Drug-Related Offenses

The *Common Manual* has been updated to include statutory changes resulting from the Higher Education Opportunity Act. Revised policy expands eligibility reinstatement after a drug-related conviction of a student who was enrolled in school and receiving Title IV aid when the conviction occurred to include the successful passing of two unannounced drug tests conducted by an approved drug rehabilitation program. A student may regain eligibility for Title IV aid on the date that the student successfully completes an approved drug rehabilitation program or on the date the student successfully passes two unannounced drug tests conducted by an approved drug rehabilitation program. In this case, the student may regain eligibility prior to actually completing the rehabilitation program.

Affected Sections:	5.8 Effect of Drug Conviction on Eligibility
Effective Date:	Reinstatement of Title IV eligibility on or after July 1, 2010.
Basis:	HEA §484(r)(2)(B), as amended by the Higher Education Opportunity Act (HEOA), Public Law 110-315.
Policy Information:	1187/168
Guarantor Comments:	None.



Policy Changes Approved April 15, 2010

Unified Student Loan Policy

Batch 168: Proposals 1182 – 1194 and 1158

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Correspondence and Distance Education Courses

The *Common Manual* has been revised to incorporate provisions of the Higher Education Opportunity Act of 2008 (HEOA) and final rules published in the October 27, 2009, *Federal Register* that replace the term "telecommunications" with "distance education." A program of study offered principally through distance education is an eligible Title IV program. "Distance education" is defined in the glossary as education that uses one or more technologies to deliver instruction to a student who is separated from the instructor and to support regular and substantive interaction between the student and the instructor, either simultaneously or at different times. Any of the following are permissible distance education technologies:

- The Internet.
- One-way and two-way transmissions through open broadcast, closed circuit, cable, microwave, broadband lines, fiber optics, satellite, or wireless communications devices.
- Audio conferencing.

Videocassettes, DVDs, and CD-ROMs may also be used in conjunction with any of the technologies listed above.

The Manual definition of "correspondence course" has been revised to clarify that this is typically a self-paced course for which the school provides instructional materials by mail or electronic transmission, including examinations on the materials, to a student who is separated from the instructor. Interaction between the instructor and student is limited, is not regular and substantive, and is primarily initiated by the student. A correspondence course is not distance education. Revised policy also clarifies permissible costs of attendance for a student enrolled in a correspondence study.

The glossary definition of "telecommunications course" has been deleted. Additional references to a telecommunications course or program throughout the Manual will be corrected to refer to "distance education" via a separate technical edit process.

Affected Sections:	5.12 Use of Telecommunications and Correspondence in Programs of Study 5.12.A Telecommunications Program of Study 6.5.B COA Exceptions for Correspondence and Telecommunications Study Appendix G
Effective Date:	August 14, 2008, for distance education courses. July 1, 2010, for correspondence courses.
Basis:	HEA §103(7); §600.2 Definition of correspondence course; §600.2 Definition of Distance Education; <i>Federal Register</i> dated October 27, 2009, pp. 55425 and 55426; DCL GEN-08-12.
Policy Information:	1188/168
Guarantor Comments:	None.



Policy Changes Approved April 15, 2010

Unified Student Loan Policy

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Multiple Disbursements and Low Cohort Default Rate Exemptions

The *Common Manual* has been updated with guidance found in Volume 3 of the 09-10 FSA Handbook. A school may disburse a Stafford or PLUS loan in a single disbursement if the school has a cohort default rate of less than 10% for each of the three most recent fiscal years for which data are available, and any one of the following conditions applies:

- The loan is certified for a period of enrollment that is not more than one semester, trimester, or quarter.
- In a nonstandard term-based program with terms that are substantially equal and at least 9 weeks of instructional time in length (SE9W), the loan is certified for a period of enrollment that is not more than one nonstandard term. However, a school must schedule at least two disbursements of a loan made for a single, nonstandard term that is SE9W but that is more than 4 months in length.
- In a nonstandard term-based program with terms that are not SE9W — i.e., the terms are not substantially equal or each term is not at least 9 weeks of instructional time in length — or in a non-term-based program, the loan is certified for a period of enrollment that is not more than 4 months.

Affected Sections:	6.4.A Multiple Disbursements and Exceptions
Effective Date:	Publication date of Volume 3 of the 09-10 FSA Handbook.
Basis:	09-10 FSA Handbook, Volume 3, p. 3-18.
Policy Information:	1189/168
Guarantor Comments:	None.



Policy Changes Approved April 15, 2010

Unified Student Loan Policy

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Income-Based Repayment (IBR) Schedule

The *Common Manual* has been revised to include a borrower's selection of the IBR plan as a reason why a lender would need to adjust the borrower's repayment terms. The Manual has also been revised to include the revised definition of partial financial hardship (PFH) for the purpose of determining a borrower's eligibility for the IBR plan. The revised definition specifies that the lender must use the greater of the amount owed on the eligible loans when the borrower initially entered repayment or the amount owed when the borrower selects the IBR plan for determining whether a borrower has a PFH. The definition of partial financial hardship contained in the glossary of the Manual has also been revised.

Finally, the Manual has been revised to include the new requirement that when calculating whether a borrower who files a joint tax return and whose spouse also has eligible loans, has a PFH, the lender must determine each borrower's payment amount by multiplying the total calculated payment amount by the borrower's percentage of the couple's total loan debt. This step must be done before performing any proration for the borrower's loans held by multiple loan holders and applying the PFH payment amount rules.

Affected Sections:	10.6.E Adjusting the Borrower's Repayment Terms 10.8.D Income-Based Repayment Schedule Appendix G
Effective Date:	Income-based repayment (IBR) plan requests or renewals processed by the lender on or after July 1, 2010.
Basis:	§682.215(a) and (b)(1); Final Rules published in the <i>Federal Register</i> dated October 29, 2009, p. 55995.
Policy Information:	1190/168
Guarantor Comments:	None.



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Unified Student Loan Policy

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Lender Disclosures during Repayment

The *Common Manual* has been revised to incorporate final rule clarifications to several of the disclosures a lender must provide to a borrower in repayment, which state:

- The total amount of interest paid on the loan provided to a borrower must be since the last bill or statement.
- The aggregate amounts provided to a borrower identifying the interest and fees paid on the loan and the amount paid against the balance must all be disclosed separately. The aggregate balance provided to the borrower must be the principal balance.
- A lender's or loan servicer's address and toll-free phone number must also be provided to a borrower for repayment options.

The Manual has also been revised to incorporate guidance contained in the preamble to the NPRM that states that these disclosures may be provided to a borrower based on the lender's or loan servicer's current system methodology and, therefore, may be disclosed at the loan, account, or borrower level.

Affected Sections:	10.12 Lender Disclosures during Repayment
Effective Date:	Loans with first payments due on or after July 1, 2010.
Basis:	§682.205(c)(3), <i>Federal Register</i> dated October 29, 2009, p. 55993; Preamble to Notice of Proposed Rulemaking (NPRM) <i>Federal Register</i> dated July 23, 2009, pp. 36571-36572.
Policy Information:	1191/168
Guarantor Comments:	None.



Policy Changes Approved April 15, 2010

Unified Student Loan Policy

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Disclosure When Granting a Deferment on Unsubsidized Stafford and PLUS Loans

The *Common Manual* has been revised to clarify the deferment disclosure requirement. Before or at the time a lender grants a deferment on an unsubsidized Stafford or PLUS loan, a lender must provide general information, including an example, to the borrower to assist the borrower in understanding the impact of the capitalization of interest on the loan principal and the total amount of interest to be paid over the life of the loan. In addition, the lender must notify an unsubsidized Stafford or PLUS borrower of the option to pay the accruing interest or cancel the deferment and continue to make monthly payments on the loan.

These disclosure requirements have been incorporated into all federally-approved deferment forms with a May 2012 expiration date, and are currently being incorporated into the Military Deferment form.

Affected Sections:	11.1.J Disclosure When Granting a Deferment on an Unsubsidized Stafford Loan
Effective Date:	Deferments granted on or after July 1, 2010.
Basis:	§682.210(a)(3)(ii), Final Rules published in the <i>Federal Register</i> dated October 29, 2009, pp. 55977 and 55994.
Policy Information:	1192/168
Guarantor Comments:	None.



Policy Changes Approved April 15, 2010

Unified Student Loan Policy

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Economic Hardship Deferment Eligibility

The *Common Manual* has been updated to remove the ability of a borrower to qualify for an economic hardship deferment based solely on being unemployed, incarcerated, disabled, or on a temporary leave of absence from work, if the condition begins on or after July 1, 2009.

In addition, the Manual is revised to reflect that for a borrower not residing in a state that is identified in the poverty guidelines (i.e., a borrower living abroad), deferment eligibility is based on the poverty guideline for the 48 contiguous states.

Finally, the definition of "economic hardship" contained in Appendix G has been revised to remove the debt-to-income ratio eligibility criterion and to refer the reader to Subsection 11.4.A for a complete list of the eligibility criteria for the deferment.

Affected Sections:	11.4.A Eligibility Criteria—Economic Hardship Appendix G
Effective Date:	Economic hardship deferments granted on or after July 1, 2009, that begin on or after July 1, 2009.
Basis:	§682.210(s)(6); preamble to the <i>Federal Register</i> published October 23, 2008, page 63235.
Policy Information:	1158/168 (originally distributed in Batch 163)
Guarantor Comments:	None.



Policy Changes Approved April 15, 2010

Unified Student Loan Policy

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Lender Disclosures during Delinquency

The *Common Manual* has been revised to incorporate Final Rule clarifications to two of the disclosures a lender must provide to a borrower who is 60 days delinquent. These clarifications state that:

- The minimum payment to avoid default disclosed to a borrower must be as of the date of the lender's notice, and must include the payment amount needed to either bring the loan current or to pay the loan in full.
- A lender must provide resources of which it is aware where the borrower may receive *additional* advice and assistance on loan repayment.

Revised policy also incorporates guidance that states a lender must send this disclosure notice to a borrower within five days of the date the borrower becomes 60 days delinquent, unless the lender has sent a similar notice to that borrower within the preceding 120 days.

Affected Sections:	12.1.A Lender Disclosure Requirements
Effective Date:	Loans that become delinquent on or after July 1, 2010.
Basis:	<i>Federal Register</i> dated October 29, 2009, p. 55993.
Policy Information:	1193/168
Guarantor Comments:	None.



Policy Changes Approved April 15, 2010

Unified Student Loan Policy

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Lender Disclosures – Consolidation Loans

The *Common Manual* has been revised to incorporate a Final Rule clarification that states that in disclosing the potential loss of loan benefits to a prospective Consolidation loan borrower, these benefits include, *but are not limited to*, loan forgiveness, cancellation, deferment, and a reduced interest rate.

Revised policy also incorporates an additional disclosure requirement in which a lender must disclose to a borrower the process and deadline for canceling a Consolidation loan. After receiving all information necessary to make a Consolidation loan and prior to making any payments to the holder(s) of the underlying loans, the lender must notify the borrower of his or her option to cancel the Consolidation loan. The lender must provide the borrower a deadline of at least 10 days from the date of the notice to cancel the loan and may not disburse the loan until that deadline has passed without an indication from the borrower of the intent to cancel.

Affected Sections:	15.3.A Providing Consolidation Loan Information 15.4 Disbursement
Effective Date:	Loan applications distributed on or after July 1, 2010.
Basis:	§682.205(i); §682.206(f); <i>Federal Register</i> dated October 29, 2009, p. 55993.
Policy Information:	1194/168
Guarantor Comments:	None.



Policy Changes Approved April 15, 2010

Unified Student Loan Policy

Batch 169: Proposals 1195 – 1212

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Qualifying Teaching Service for the Teacher Loan Forgiveness Program

The *Common Manual* has been updated to clarify that an eligible borrower may qualify for teacher loan forgiveness only if he or she performed at least one of the 5 years of qualifying teaching service at a qualifying elementary or secondary school after the 1997-1998 academic year. This text was inadvertently removed from the Manual in Policy Proposal 1113 in Batch 158.

Revised policy also adds clarification from the final rules published in the October 29, 2009, *Federal Register*, that permits an eligible borrower who performed some or all of his or her service at an eligible educational service agency to qualify for teacher loan forgiveness only if the 5 years of qualifying teaching service include service at an eligible educational service agency performed after the 2007-2008 academic year.

Affected Sections:	13.9.A Teacher Loan Forgiveness Program
Effective Date:	Applications received on or after July 1, 2010.
Basis:	§682.216(a); <i>Federal Register</i> dated October 29, 2009, pp. 55995 and 55996.
Policy Information:	1195/169
Guarantor Comments:	None.



Policy Changes Approved April 15, 2010

Unified Student Loan Policy

Batch 169: Proposals 1195 – 1212

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Revised Inducement Rules

The *Common Manual* has been revised to clarify the following:

- The prohibition against offering points, premiums, payments, etc. to any school or employee of the school also applies to any other individual or entity if that offer is made to secure FFELP loan applications.
- Any student who acts as a lender's representative to secure FFELP loan applications must disclose the affiliation with the lender to school administrators and to prospective borrowers.
- The lender may not pay finders fees to another lender or other party – now explicitly defined as a school, a school employee, a school-affiliated organization, or an employee of a school-affiliated organization – in addition to the existing prohibition against referral and processing fees.
- The lender may not compensate a school-affiliated organization or its employee for participation on an advisory board, commission, or group established by the lender, but may reimburse the employee for reasonable expenses incurred in providing the service.
- The lender is permitted to participate in the school's entrance and exit counseling sessions, within certain boundaries and may continue to provide certain support to foreign schools, as directed by the Department.

Also, the provision that permits a lender to provide short-term emergency support to schools is moved to "Permitted Activities" and expanded to explain that such services may not be provided in an effort to secure FFELP loan applications or loan volume.

Affected Sections:	3.4.C PERMITTED and Prohibited Activities
Effective Date:	July 1, 2010.
Basis:	§682.200(b), definition of <i>lender</i> , (5)(i) and (ii); Preamble to the Final Rules as published in the <i>Federal Register</i> dated October 29, 2009, p. 55989; <i>Federal Register</i> dated October 28, 2009, p. 55632.
Policy Information:	1196/169
Guarantor Comments:	None.



Policy Changes Approved April 15, 2010

Unified Student Loan Policy

Batch 169: Proposals 1195 – 1212

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Lender Reporting Requirements Relating to Preferred Lender Arrangements

The *Common Manual* has been updated with changes from Final Rules published in the *Federal Register* dated October 28, 2009, that incorporate several new lender reporting requirements relating to preferred lender arrangements.

If a lender has a preferred lender arrangement with a school or an institution-affiliated organization, the lender must report to the Department on an annual basis each of the following:

- Any reasonable expenses for service on a lender advisory board, commission, or group established by a lender or group of lenders that were paid or provided to any agent of a school who is employed in the financial aid office or who has other responsibilities with respect to education loans or other student financial aid at the school.
- Any reasonable expenses paid or provided to any agent of an institution-affiliated organization who is involved in recommending, promoting, or endorsing education loans.

This report must include all of the following each time expenses are paid or provided by a lender:

- The amount of the expenses.
- The name of the agent at the school or institution-affiliated organization.
- The date and a brief description of the activity.

A lender must provide to the school or institution-affiliated organization, as well as to the Department, information regarding each type of FFELP loan the lender plans to offer under the preferred lender arrangement to students or families of students attending that school for the next award year. The specific information the lender must provide will be determined by the Department and the Board of Governors of the Federal Reserve System.

If a lender is participating in one or more preferred lender arrangements, the lender must certify on an annual basis that it is in compliance with the Higher Education Act (HEA). If a lender is required to submit an annual audit, the auditor may provide this certification as part of that audit. If a lender is not required to submit an annual audit, the lender must submit this certification directly to the Department.

Affected Sections:	3.5 Lender Reporting
Effective Date:	July 1, 2010.
Basis:	HEA §152(b)(1)(B) and (b)(2); HEA §153(b); §601.40(b) - (d).
Policy Information:	1197/169
Guarantor Comments:	None.



Policy Changes Approved April 15, 2010

Unified Student Loan Policy

Batch 169: Proposals 1195 – 1212

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90/10 Rule for Proprietary Schools

The Manual has been revised to state that if a proprietary school fails to satisfy the 90/10 rule during its most recently completed fiscal year, the school has no more than 45 days after the end of that period to report to the Department and each applicable guarantor that it did not satisfy the 90/10 rule for that period. A proprietary school's certification becomes provisional at the start of a fiscal year after the school fails to satisfy the 90/10 rule for the preceding fiscal year. The school's provisional certification ends on either of the following:

- The date of the expiration date of the school's program participation agreement, in effect on the date that the school failed to satisfy the 90/10 rule.
- The date the school loses its eligibility to participate in Title IV programs. The school will lose its eligibility on the last day of the second consecutive fiscal year for which the school failed to satisfy the 90/10 rule.

To regain eligibility to participate in Title IV programs, a proprietary school must demonstrate that it has complied with the state licensing, the accreditation, and the financial responsibility requirements for a minimum of two fiscal years after the end of the fiscal year in which the school became ineligible.

Affected Sections:

4.1.A Establishing Eligibility
4.1.D Loss of Eligibility
4.3.A General School Financial Responsibility Standards

Effective Date:

July 1, 2010.

Basis:

§668.13(c)(1)(ii); §668.14(b)(16); §668.23(d)(4); §668.28; *Federal Register* dated October 29, 2009, pp. 55907 – 55910 and pp. 55936 – 55942; *Federal Register* dated August 21, 2009, pp. 42388 – 42391; 09-10 FSA Handbook, Volume 2, Chapter 1, p. 2-7.

Policy Information:

1198/169

Guarantor Comments:

None.



Policy Changes Approved April 15, 2010

Unified Student Loan Policy

Batch 169: Proposals 1195 – 1212

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Private Education Loans

The *Common Manual* has been updated to include final rule changes published in the October 29, 2009, *Federal Register* and DCL GEN-10-01, that require a school to provide certain disclosures to a student or parent who is a private education loan applicant, and to report to the Department certain aspects of a school agent's activities with respect to a private education loan lender.

Private Education Loan Applicant Self-Certification Form

As a condition of a school's Program Participation Agreement, a school must provide to an enrolled or admitted student, or to the parent of an enrolled or admitted student, including a student or parent who is an applicant for a private education loan made by the school, all of the following:

- The Private Education Loan Applicant Self-Certification form in paper or electronic format. A school must provide the self-certification form upon the applicant's request by posting the form on its Website or the school may provide the form directly to the applicant through the school's financial aid office or another designated office at the school. The school must provide the form to an applicant who requests it even if the private education loan for which the applicant is applying will be made by the school.
- Information that is necessary for the applicant to complete the form, if the school possesses the information, includes all of the following:
 - The student's cost of attendance (COA).
 - The amount of estimated financial assistance (EFA) that the school expects the student to receive, including amounts used to replace the expected family contribution (EFC).
 - The amount that is the difference between the student's COA and EFA (i.e., unmet financial need).

A school is not required to update the information necessary for the applicant to complete the form in a case when the information later changes. A school may, but is not required to, provide the self-certification form and the information necessary to complete the form to the private education loan lender.

In addition, at the request of a private education loan applicant, the school must discuss the availability of federal, state, and institutional financial aid.

Reasonable Reimbursements a School Agent Receives for Service on a Private Lender's Advisory Board

A school must annually report to the Department the amount of any reasonable expenses that were paid or provided by a private education loan lender or group of lenders to an agent of the school with responsibilities for financial aid. The school must report all of the following:

- The amount for each specific instance of reasonable expenses paid or provided. See Subsection

4.1.E for more information about the standards for determining reasonable expenses.

- The name of the agent with responsibilities for financial aid to whom the expenses were paid or provided.
- The dates of each activity for which the expenses were paid or provided.
- A brief description of each activity for which the expenses were paid or provided.

The aforementioned reimbursements arise from reasonable expenses incurred by a school agent who has responsibilities for education loans or financial aid for that agent's service on an advisory board or commission established by a private education loan lender or group of lenders. This permissible activity, and the definition of reasonable expenses incurred by a school's agent for this purpose, are addressed separately in Subsection 4.1.E as updated by policy proposal 1176 in Batch 167.

Private Education Loan Information

A school or an institution-affiliated organization that provides information regarding a private education loan from a lender to a prospective borrower must provide all of the following disclosures to the prospective borrower, regardless of whether the school or the institution-affiliated organization participates in a preferred lender arrangement:

- The information the Federal Reserve System requires to be disclosed under the Truth in Lending Act (TILA). A school may rely upon the information it obtains from a private education loan lender on the Private Loan Application and Solicitation Model form approved by the Federal Reserve System or in another format that contains the same information as on the model disclosure form to meet this requirement. For more information about the Private Loan Application and Solicitation Model form, see the final rules published by the Federal Reserve Board in the *Federal Register* dated August 14, 2009, Vol. 74, No. 156, pp. 41237 and 41238.
- A statement that the prospective borrower may qualify for Title IV loan or grant funds.
- A statement that the terms and conditions of Title IV loan may be more favorable than the provisions of private education loans.

In addition, a school or an institution-affiliated organization must ensure that information regarding private education loans is presented in such a manner as to be distinct from information regarding Title IV loans.

Affected Sections:	4.1.A Establishing Eligibility 4.2 Administrative Capability Standards 4.4 Providing Information to Students
Effective Date:	For administrative capability standards, August 14, 2008. Private education loan information provided by a school on or after July 1, 2010. Borrower requests for private education loan eligibility information received by a school on or after February 14, 2010.
Basis:	§601.11; §668.14(b)(29); §668.16(d)(1) and (2); <i>Federal Register</i> dated July 28, 2009, p. 37445; <i>Federal Register</i> dated August 14, 2009, pp. 41226-41227; <i>Federal Register</i> dated October 28, 2009, pp. 55630-55631 and 55648; DCL GEN-10-01.
Policy Information:	1199/169
Guarantor Comments:	None.



Policy Changes Approved April 15, 2010

Unified Student Loan Policy

Batch 169: Proposals 1195 – 1212

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Preferred Lender Arrangements and Lists

The *Common Manual* has been updated with clarifications from Final Rules published in the October 29, 2009, *Federal Register* concerning preferred lender arrangements and preferred lender lists. The updated section defines a "preferred lender arrangement," addresses a preferred lender list of private education loan lenders, and adds new information about acceptable alternatives to providing a preferred lender list. In conjunction with the addition of new information about preferred lender arrangements, revised policy reorganizes the section about preferred lender lists to clarify the requirements for creating a preferred lender list, the disclosures that a school must include on such a list, and other disclosures required of a school that participates in a preferred lender arrangement.

Affected Sections:	4.4.A Recommended Lender Lists
Effective Date:	July 1, 2010.
Basis:	§601.2(b); §668.14(b)(28); §668.16(d)(1) and (2)(i)(A)-(D); <i>Federal Register</i> dated October 28, 2009, pp. 55629 and 55630; DCL GEN-08-06.
Policy Information:	1200/169
Guarantor Comments:	None.



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Unified Student Loan Policy

Batch 169: Proposals 1195 – 1212

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Exit Counseling

The *Common Manual* has been revised to clarify information that a borrower must receive during exit counseling:

- The terms and conditions of a Title IV loan (e.g., deferment, forbearance, and cancellation).
- The forgiveness and discharge benefits available to a FFELP borrower who consolidates his or her loan(s) into the FDLP.
- That the borrower must repay the loan(s) even if he or she does not complete the program within the regular time for program completion.

Revised policy also explicitly states that the school may provide either a printed or electronic copy of the Department's publication that describes the federal student aid programs.

Affected Sections:

4.4.D Exit Counseling

Effective Date:

Exit counseling provided by the school on or after August 14, 2008, for:

- The terms and conditions of a Title IV loan (e.g., deferment, forbearance, and cancellation).
- The forgiveness and discharge benefits available to a FFELP borrower who consolidates his or her loan(s) into the FDLP.

Exit counseling provided by the school on or after July 1, 2010, for:

- Information about the borrower's obligation to repay the loan(s) even if he or she does not complete the program within the regular time frame for program completion.
- The school's ability to provide the Department's publication that describes the federal student aid programs in a printed or an electronic format.

Basis:

§485(b) of the Higher Education Act as amended by the Higher Education Opportunity Act (HEOA) (P.L. 110-315); §682.604(g); *Federal Register* dated October 28, 2009, p. 55640; DCL GEN-08-12/FP-08-10.

Policy Information:

1201/169

Guarantor Comments:

None.



Policy Changes Approved April 15, 2010

Unified Student Loan Policy

Batch 169: Proposals 1195 – 1212

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Eligible Borrower Reaffirmation

The *Common Manual* has been updated to incorporate provisions of the Final Rules published in the *Federal Register* dated October 29, 2009. For the purpose of reaffirmation of a loan, the reaffirmed amount includes attorney fees and the term "legal costs" has been changed to "court costs."

Affected Sections:	5.3 Prior Loan Written Off Appendix G
Effective Date:	Discharge applications received by the holder on or after July 1, 2010.
Basis:	§682.201(a)(4)(i); <i>Federal Register</i> dated October 29, 2009, p. 55990.
Policy Information:	1202/169
Guarantor Comments:	None.



Policy Changes Approved April 15, 2010

Unified Student Loan Policy

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New Loan Eligibility after a Total and Permanent Disability Loan Discharge

The *Common Manual* has been updated to comply with Final Rules published October 29, 2009, DCL GEN-09-07/FP-09-05, and the 09-10 FSA Handbook, Volume 1, Chapter 3, p. 1-51. These revisions:

- Add that a borrower whose prior federal student loan or TEACH grant recipient's service obligation received a final discharge and the grant recipient is placed in a 3-year post-discharge monitoring period based on a determination that the borrower is totally and permanently disabled must meet the same requirements as those placed in a 3-year conditional period before he or she may receive new loan funds.
- Add the provision that, for a TEACH grant service obligation that received a final discharge and is in the 3-year post-discharge monitoring period, the borrower must acknowledge that he or she is once again subject to the terms of the TEACH grant agreement.
- Remove the requirement that in order to receive a new federal student loan after a prior loan was discharged, a borrower had to reaffirm any loan that had been discharged based on a determination of total and permanent disability on or after July 1, 2001, but before July 1, 2002, if the borrower applies for a new loan within 3 years from the date the borrower became totally and permanently disabled, as certified by a physician.
- State that for a borrower who requests a new federal student loan or TEACH grant after a prior federal student loan or TEACH Grant service obligation was granted a final discharge and if applicable, the borrower completed a 3-year post-discharge monitoring period, the borrower must obtain the physician certification only once and the school should keep a copy of it in the borrower's file. However, the school must collect a new borrower acknowledgment statement from the borrower for each new federal student loan he or she requests.
- Clarify that a loan that is discharged based on a determination of total and permanent disability by the U.S. Department of Veterans Affairs is not placed in a 3-year conditional discharge or 3-year post-discharge monitoring period.
- Add to the glossary the definition of "substantial gainful activity" as a level of work performed for pay or profit that involves doing significant physical or mental activities, or a combination of both. "For profit" covers a self-employed individual who is not paid by an employer and does not refer to income from sources other than employment. Non-employment income will not be considered when determining whether a borrower is capable of substantial gainful activity.

Affected Sections:

- 5.4.A Conditional Discharge of a Prior Loan Due to Total and Permanent Disability
- 5.4.B Final Discharge of a Prior Loan Due to Total and Permanent Disability
- Figure 5-1
- 6.15 School Certification of the Loan

8.7 Delivering Loan Funds

Appendix G

Effective Date:

Total and permanent disability loan discharge applications received on or after July 1, 2010.

Upon publication of the 09-10 FSA Handbook, Volume 1, for the purpose of determining the borrower's eligibility for a new federal student loan after a prior loan is discharged due to total and permanent disability.

Basis:

§682.200(b) definition of "substantial gainful activity"; §682.201(a)(6) and (7); *Federal Register* dated July 23, 2009, p. 36559; *Federal Register* dated October 29, 2009, pp. 55990-55991; DCL GEN-09-07/FP-09-05; 09-10 FSA Handbook, Volume 1, Chapter 3, p.1-51.

Policy Information:

1203/169

Guarantor Comments:

None.



Policy Changes Approved April 15, 2010

Unified Student Loan Policy

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Borrower's Rights and Responsibilities

The *Common Manual* has been updated to include in the initial lender disclosure requirements language previously removed from the Manual that states a lender must provide a borrower an explanation of the possible effects of accepting a loan on the student's eligibility for other forms of financial aid.

The most recent versions of the Stafford and PLUS Master Promissory Notes (MPNs) were revised after the passage of the Higher Education Opportunity Act (HEOA) of 2008 to incorporate all the general initial loan disclosures into the Borrower's Rights and Responsibilities statement as well as the Plain Language Disclosure. The Manual has been updated to clearly identify the loan- and lender-specific disclosures that must be provided to a borrower at or before first disbursement of a loan, separate from the Borrower's Rights and Responsibilities statement or Plain Language Disclosure.

Affected Sections:	7.6.A General Initial Disclosure Requirements
Effective Date:	Initial disclosure information provided on or after July 1, 2010.
Basis:	§682.205(a)(2)(xvii).
Policy Information:	1204/169
Guarantor Comments:	None.



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Unified Student Loan Policy

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Repayment Disclosures Exception for Invalid Address

The *Common Manual* has been revised to add an exception to the requirement that a lender send certain disclosures during repayment. The lender is exempt from sending the required disclosures if the lender does not have a valid address for the borrower. However, the policy stipulates that if the lender receives a valid address for the borrower before the borrower's loan becomes 241 days delinquent, the lender must resume sending the required bill or statement (the lender is not required to resend previously undeliverable bills or statements), as well as any other disclosure information not previously provided.

Affected Sections:	10.7 Disclosing Repayment Terms 10.12 Lender Disclosures During Repayment 12.1.A Lender Disclosure Requirements
Effective Date:	Invalid borrower address identified by a lender on or after July 1, 2010.
Basis:	§682.205(j); Final Rules as published in the <i>Federal Register</i> dated October 29, 2009, p. 55993.
Policy Information:	1205/169
Guarantor Comments:	None.



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Unified Student Loan Policy

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Total and Permanent Disability - VA

The *Common Manual* has been updated to add the separate standards and procedures for processing total and permanent disability discharge requests for borrowers who had been determined by the U.S. Department of Veteran Affairs (VA) to be unemployable due to a service-connected condition.

Affected Sections:	13.1.D Claim File Documentation 13.2 Claim Returns 13.3 Claim Purchase or Discharge Payment 13.8.G Total and Permanent Disability Appendix G
Effective Date:	Total and Permanent Disability - VA applications received by the lender on or after July 1, 2010, for the change in the guarantor's timeframe for claim processing. Total and Permanent Disability - VA applications received by the lender on or after August 14, 2008, for all other provisions.
Basis:	§682.402(c)(1)(iii); §682.402(c)(8); DCL GEN-09-07/FP-09-05; <i>Federal Register</i> dated October 29, 2009, p. 55997 and pp. 55999 - 56000.
Policy Information:	1206/169
Guarantor Comments:	None.



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Unified Student Loan Policy

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Total and Permanent Disability Loan Discharge Based on Regular Determinations

The *Common Manual* is being updated to reflect preamble language of the proposed rules published in the *Federal Register* on July 23, 2009, and Final Rules published in the *Federal Register* on October 20, 2009. The policy states that a borrower, comaker, or endorser is considered totally and permanently disabled if he or she is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment that meets any one of the following criteria:

- Can be expected to result in death.
- Has lasted for a continuous period of not less than 60 months.
- Is expected to last for a continuous period of not less than 60 months.

The policy states that "substantial gainful activity" is defined as a level of work performed for pay or profit that involves doing significant physical or mental activities, or combination of both. "For profit" is intended to cover self-employed individuals who are not paid by an employer. It does not refer to income from sources other than employment. Non-employment income will not be considered when determining whether a borrower is capable of substantial gainful activity.

Also, the policy states that as part of the Department's review of the borrower's discharge application, the Department may arrange for an additional review of the borrower's condition by an independent physician at no expense to the borrower. If the Department makes a determination that the borrower, comaker, or endorser is totally and permanently disabled, the loan(s) is discharged and the borrower, comaker, or endorser is placed in a discharge monitoring period that will last for 3 years after the date the Department grants the discharge. If a borrower, comaker, or endorser received a TEACH grant or Title IV loan prior to the date the physician certified the borrower's discharge application and a disbursement of that loan or grant is made during the period from the date of the physician's certification until the date the Department grants a discharge, the processing of the borrower's loan discharge request will be suspended until the borrower ensures that the full amount of the disbursement has been returned to the loan holder or to the Department, as applicable. The policy describes the conditions that must be met by the borrower, comaker, or endorser during the 3-year monitoring period to maintain the discharged status of the loan(s) and information about reinstatement of the loan(s) if those conditions aren't met.

The glossary definition of "disability" has been deleted and the definition of "temporarily totally disabled" as been added.

Affected Sections:	13.8.G Total and Permanent Disability Appendix G
Effective Date:	Total and permanent disability discharge applications received by the lender on or after July 1, 2010.
Basis:	§682.200(b), definition of substantial gainful activity; §682.200(b) definition of totally and permanently disabled; §682.402(c)(2)-(7); <i>Federal Register</i> dated

Policy Information:
Guarantor Comments:

July, 23, 2010, p. 36559; *Federal Register* dated October 29, 2010, p. 55990
and pp. 55997-55999.
1207/169
None.



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Unified Student Loan Policy

1195 – 1212

Batch 169: Proposals

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IBR for FFELP Consolidation of a Defaulted Loan

The *Common Manual* has been revised to add requesting to pay under the income-based repayment schedule as a means by which a borrower with a defaulted loan may become eligible for a FFELP Consolidation loan.

Affected Sections:	15.2 Borrower Eligibility and Underlying Loan Holder Requirements
Effective Date:	Consolidation requests received by the lender on or after July 1, 2009.
Basis:	<i>Federal Register</i> dated October 29, 2009, p. 55990.
Policy Information:	1208/169
Guarantor Comments:	None.



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Unified Student Loan Policy

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Electronic Notification Package for Cohort Default Rate (eCDR) and Loan Record Detail Report Request

The *Common Manual* has been revised to incorporate provisions of the Final Rules published in the October 29, 2009, *Federal Register* that outlines the electronic cohort default rate (eCDR) process used by the Department to deliver cohort default rate information to schools. The eCDR package automatically includes a school's loan record detail report, eliminating the need for a school to request a copy of the report, and the associated 15-day timeline. The timeline for submitting a challenge, adjustment, or appeal begins on the sixth business day following the successful transmission date of the eCDR package as posted on the Department's Website, and lasts for 45 days. If a school reports a transmission problem within 5 business days following the transmission, and the Department agrees that the problem was not caused by the school, then the timeline for challenge, adjustment, or appeal is extended to account for retransmission of the eCDR notification package once the technical problem is resolved. The school's 45-day timeline for submitting a challenge, adjustment, or appeal begins when the school receives the notification package, and all guarantors are notified of the school's new timeline. If the school does not notify the Department of a transmission problem within the 5 business days following the transmission date of the eCDR package, the Department does not extend the timeline for submitting a challenge, adjustment, or appeal.

Revised policy includes clarification that beginning with the FY 2008 official cohort default rate cycle in September 2010, the Department will exclusively transmit CDR notifications to foreign schools electronically through the eCDR process.

The Manual has also been revised to add a glossary definition for "Electronic Cohort Default Rate (eCDR) Notification Package" that explains that this is the electronic process the Department uses to notify a domestic school of its cohort default rates. A glossary definition for "Loan Record Detail Report (LRDR)" has also been added. The LRDR is the report that the Department issues to schools that contains the detailed data used to calculate the school's draft and official cohort default rates.

Affected Sections:	16.1 Overview of Cohort Default Rates and Terminology 16.3 School Draft Cohort Default Rates and Challenges 16.4 School Official Cohort Default Rates, Adjustments, and Appeals 16.4.B School Appeals Appendix G
Effective Date:	July 1, 2010.
Basis:	§668.185; §668.186; §668.204; §600.205; <i>Federal Register</i> dated July 28, 2009, pp. 37447-37448; private guidance from Donna Bellflower of the Department, dated January 27, 2010; <i>Federal Student Aid Newsletter</i> , FY 2008 Draft Cohort Default Rate, dated February 2010.
Policy Information:	1209/169
Guarantor Comments:	None.



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Unified Student Loan Policy

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Cohort Default Rate Adjustments and Appeals

The *Common Manual* has been updated to specify that when the Department approves a request for adjustment based on uncorrected or new data, or an erroneous data appeal, it will recalculate the school's cohort default rate and electronically correct the rate that is publicly released. When the Department approves an improper servicing appeal, it will use a statistically valid methodology to exclude the corresponding percentage of borrowers from both the numerator and denominator of the calculation of the school's cohort default rate and electronically correct the rate that is publicly released. Finally, if the Department approves an average rate appeal, the school will not lose its Title IV eligibility.

Affected Sections:	16.4.A School Requests for Adjustment 16.4.B School Appeals
Effective Date:	July 1, 2010, for two-year cohort default rates calculated for fiscal years 2008 through 2011.
Basis:	§668.191(c); §668.192(c); §668.193(f); §668.196(c); <i>Federal Register</i> dated October 28, 2009, p. 55633.
Policy Information:	1210/169
Guarantor Comments:	None.



Policy Changes Approved April 15, 2010

Unified Student Loan Policy

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Definition of "Agent"

The *Common Manual* has been updated to provide a glossary definition of "agent." For the purposes of a school's code of conduct and preferred lender arrangements, an "agent" is defined as an officer or employee of the school or an institution-affiliated organization.

Affected Sections:	Appendix G
Effective Date:	July 1, 2010.
Basis:	§601.2(b) definition of <i>agent</i> , <i>Federal Register</i> dated July 28, 2009, pp. 37435 and 37433; <i>Federal Register</i> dated October 28, 2009, p. 55644.
Policy Information:	1211/169
Guarantor Comments:	None.



Policy Changes Approved April 15, 2010

Unified Student Loan Policy

1195 – 1212

Batch 169: Proposals

The nation's guarantors provide the following summaries to inform schools, lenders, and servicers of the latest *Common Manual* policy changes. These changes will appear in the manual's next annual update. These changes will also be incorporated into the *Integrated Common Manual*. The *Integrated Common Manual* is available on several guarantor websites, and it is also available on the *Common Manual's* website at www.commonmanual.org. Please carefully note the effective date of each policy change.

Administrative Capability Standards

The *Common Manual* has been revised to include the long-standing administrative capability standard requiring a school to establish and maintain records required under 34 CFR Part 668 (General Provisions) and as required for each Title IV program.

Affected Sections:	4.2 Administrative Capability Standards
Effective Date:	Retroactive to the implementation of the <i>Common Manual</i> .
Basis:	§668.16(d)(1).
Policy Information:	1212/169
Guarantor Comments:	None.